

ENTERED

October 27, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION****ANSERA BENET DUPREE,***Plaintiff,***VS.****HARRIS COUNTY DISTRICT
ATTORNEY,***Defendant.*§
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§**CIVIL ACTION NO. 4:23-cv-03952****MEMORANDUM AND ORDER**

Pending before the Court is Plaintiff's Motion for Appointment of Counsel. (ECF No. 3.) Unfortunately, the Court has no funds for the appointment of counsel in a civil case. Nor is there an automatic constitutional right to appointment of counsel in civil cases. *Baranowski v. Hart*, 485 F.3d 112, 126 (5th Cir. 2007). A district court is not required to appoint counsel unless there are "exceptional circumstances." *Cupit v. Jones*, 835 F.2d 82, 86 (5th Cir. 1987). A determination of exceptional circumstances is "dependent on the type and complexity of the case and the abilities of the individual pursuing that case." *Cupit v. Jones*, 835 F.2d 82, 86 (5th Cir. 1987). Factors courts consider include: the type and complexity of the case; the indigent's ability to adequately present the case; the indigent's ability to investigate the case adequately; and "whether the evidence will consist in large part of conflicting testimony so as to require skill in the presentation of evidence and in cross examination." *Ullmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982).

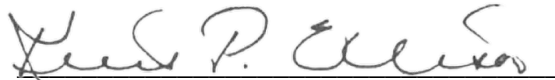
Plaintiff's Complaint is not entirely clear to the Court, but it appears Plaintiff brings a malicious prosecution claim against the Harris County District Attorney. (ECF No. 1.) The claim depends on events for which Plaintiff was present and has personal knowledge. At this stage, Plaintiff has not shown that exceptional circumstances warrant the appointment of counsel. The

Court concludes that it is unnecessary to locate and appoint counsel for Plaintiff at this time. Plaintiff may renew this motion at a later stage in the proceedings if circumstances change.

Accordingly, the Motion for Appointment of Counsel is **DENIED**.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 27th day of October, 2023.

A handwritten signature in black ink, appearing to read "Keith P. Ellison", written over a horizontal line.

HON. KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE